preventing diabetes comprising administering to a human or animal an effective dosage of at least one compound of general formula (A), classified in class 514, subclass 54;

Group IV: claims 19-20, 22-24, 31 and 33, drawn to a compound of general formula (A), classified in class 536, subclass 123.1;

Group V: claims 26 and 29-30, drawn to a method of decreasing blood glucose level comprising administering to a human or animal an effective dosage of an effective dosage of an extract of a plant of the genus *Trichocaulon* or of the genus *Hoodia* or at least one compound of formula (A), (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) or (14), classified in class 514, subclass 54; and

Group VI: claims 28-30, drawn to a method of treating impaired glucose tolerance comprising the step of administering to a human or animal an effective dosage of an effective dosage of an extract of a plan of the genus *Trichocaulon* or of the genus *Hoodia* or at lest one compound of formula (A), (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) or (14), classified in class 514, subclass 54.

In view of the restriction requirement, Applicants provisionally elect, with traverse, to proceed with the examination of the claims of Group I: claims 1-12, 18, 25, 29-30, 32 and 34, drawn to a method of treating or preventing diabetes by administering to a human or animal an effective dosage of an extract of a plant of the genus *Trichocaulon* or the genus *Hoodia*.

MPEP § 803 states that the two criteria for a proper requirement for restriction between patentably distinct inventions are (1) the inventions must be independent or distinct as claimed, and (2) there must be a serious burden on the Examiner if the restriction is not required. Here, the Examiner has only identified two different classes and subclasses for the claimed subject matter and thus has not shown that there would be a serious burden if restriction was not required.

Moreover, the Examiner states that Groups I and III are unrelated because different active agents are employed in the methodological steps. However, on page 13 of the specification, Applicants describe compounds of general formula (A) (*i.e.* Group III) are represented by

formula I (*i.e.* Group I). Therefore, the composition of formula I is a species of the genus of general formula (A).

The Examiner also states that Groups I and V and I and VI are unrelated because Groups V and VI are drawn to different methods for affecting different conditions than Group I. However, on page 3 of the specification, lines 14-16, Applicants disclose that the "diabetic disease state is characterized by an impaired glucose metabolism that manifests itself in, *inter alia*, elevated glucose levels..." Therefore an method of lowering or maintaining the glucose blood level (*i.e.* Group V) by administration of a compound of the invention is related to the defined diabetic state. Further, the method of treating an impaired glucose tolerance (*i.e.* Group VI) is disclosed as a more preferred embodiment of the invention than lowering or maintaining the glucose blood level (*i.e.* Group V). Page 24, lines 5-9.

For the above reasons, Applicants respectfully request that the Examiner rejoin the claims in Groups I, III, V and VI.

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,

Date: September 27, 2002

Gregory T. Lowen, Ph.D.
Registration No. 46,882

CUSTOMER NO. 009629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: 202-739-3000